



UNITED STATES OF AMERICA  
DEPARTMENT OF TRANSPORTATION  
OFFICE OF THE SECRETARY  
WASHINGTON, D.C.

Issued by the Department of Transportation  
on the 27th day of November, 1996

Served November 27, 1996

Application of

**AIR JAMAICA LIMITED**

for an exemption under 49 U.S.C. section 40109

Docket OST 96-1881

## ORDER

### Summary

By this order we grant Air Jamaica Limited<sup>1</sup> an exemption to conduct scheduled combination operations between New York, New York, and Atlanta, Georgia, on the one hand, and Barbados, on the other, via the intermediate points Antigua and Barbuda and St. Lucia. The authority is effective for 90 days and is limited to operations conducted under wet lease by a duly authorized and properly supervised U.S. or foreign air carrier.

### Application

On October 18, 1996, Air Jamaica requested the authority noted above for two years. In support, Air Jamaica stated that it has been designated by the Government of Barbados (GOB) to conduct the proposed operations, which are bilateral rights for Barbados; that the Governments of Jamaica, Antigua and Barbuda, and St. Lucia

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<sup>1</sup> Air Jamaica holds a Department foreign air carrier permit to conduct scheduled combination operations between Jamaica, via intermediate points, and ten U.S. coterminal points, and beyond to various points, and charters (see Order 89-3-74). Additionally, the carrier holds a Department exemption to conduct scheduled combination operations between Kingston/Montego Bay and Miami, Florida. Air Jamaica's exemption remains effective under the automatic extension provisions of Federal law (5 U.S.C. 558(c), as implemented by 14 CFR Part 377).

support the request; that U.S. recognition of the Caribbean Community through its Caribbean Basin Initiative, designed to foster growth in the region, supports grant of the request; that grant would supply underserved, small Caribbean nations, whose economies are heavily dependent upon tourism, with new services; that Barbados, Antigua and Barbuda, and St. Lucia have attempted to attract additional nonstop service from U.S. carriers but have been unsuccessful; and that comity and reciprocity with Jamaica support grant of the request. Finally, Air Jamaica proposed to conduct the operations under wet lease from Target Airways d/b/a Great American Airways. Air Jamaica stated that Great American Airways would request separate Department authority, in the form of a statement of authorization, in order to conduct the proposed wet-lease operations.

### **Responsive Pleadings**

On November 18, 1996, Amerijet International Inc., filed an answer urging the Department to deny the request.<sup>2</sup> Amerijet stated that comity and reciprocity do not support Air Jamaica's request for extrabilateral authority since Amerijet has been denied bilateral operating rights in Jamaica. Specifically, Amerijet asserted that it has been unable to secure facilities at the Kingston and Montego Bay airports from the Airports Authority of Jamaica and, further, to obtain the right to self-handle its cargo in Jamaica, a right guaranteed under the U.S.-Jamaica Air Transport Agreement (Agreement) and one enjoyed by Air Jamaica and other U.S. carriers serving Jamaica.

On November 26, 1996, Air Jamaica replied<sup>3</sup> and stated that physical constraints at the Jamaican airports limit the availability of warehouse space for all carriers, and that similar constraints at U.S. airports served by Air Jamaica prohibit it from self-handling. Further, Air Jamaica stated that the Airports Authority of Jamaica will act to ensure that Amerijet is given a fair and equal opportunity to obtain warehouse space.

### **Decision**

We have decided to grant Air Jamaica's request for a 90-day period, and to defer action on the carrier's request to conduct these operations beyond that term. We find that our action is consistent with the public interest and with Department policy.

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<sup>2</sup> Amerijet accompanied its answer with a motion, to the extent necessary, to file late. We will grant the motion.

<sup>3</sup> Air Jamaica made a motion, to the extent necessary, to file late. We will grant the motion.

As noted, the authorities requested here will make possible the use of bilateral rights for Barbados, and that country has designated and licensed Air Jamaica to conduct the operations at issue. Further, we are sensitive to the concerns of Barbados, Antigua and Barbuda, and St. Lucia for new services to those countries, whose economies are reliant upon tourism.

At the same time, we note that the authority at issue is extrabilateral as to Jamaica, and in such circumstances we are concerned about the issues raised by Amerijet and by its assertion that comity and reciprocity with Jamaica do not support grant here. We have engaged in diplomatic efforts to address these issues and have gotten assurances from the Airports Authority of Jamaica that it would meet with Amerijet to review the carrier's requirements for warehouse space and that it would use its good offices in negotiations between Amerijet and competing ground handlers in Jamaica. On that basis, and for the reasons noted above, we are not disposed to withhold the authority requested here. However, we will limit grant to a period of 90 days, in order to assess Amerijet's situation in Jamaica on an ongoing basis.

In view of the above, we find that grant of the authority described here is consistent with the public interest, and that our action does not constitute a major regulatory action under the Energy Policy and Conservation Act of 1975.

**ACCORDINGLY,**

1. We grant Air Jamaica Limited an exemption from the provisions of 49 U.S.C. section 41301, in order for it to conduct scheduled foreign air transportation of persons, property and mail between New York, New York, and Atlanta, Georgia, on the one hand, and Barbados, on the other, via the intermediate points Antigua and Barbuda and St. Lucia;
2. This authority shall be effective immediately, and shall terminate 90 days after the date of issue of this order;
3. The authority granted above is limited to operations conducted under wet lease from a duly authorized and properly supervised U.S. or foreign carrier. Air Jamaica may not conduct the operations authorized here with its own aircraft and crew without further Department action;
4. We grant all motions for leave in this Docket;
5. To the extent not granted above, we defer action on Air Jamaica's request in this Docket;

6. The authority granted above is subject to the terms, limitations, and conditions of Air Jamaica's foreign air carrier permit, as issued by Order 89-3-74;

7. We may amend, modify, or revoke this authority at any time and without hearing; and

8. We will serve a copy of this order on Air Jamaica Limited, Amerijet International, Inc., the Ambassador of Jamaica in Washington, D.C., the Department of State (Office of Aviation), and the Federal Aviation Administration (AFS-200).

By:

CHARLES A. HUNNICUTT  
Assistant Secretary for Aviation and  
International Affairs

(SEAL)